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April 9, 2003

LB 255, 735A

advancement of LB 735A, Senator Kremer. He waives closing. The question then is the advancement of LB 735A. All in favor please vote aye, and opposed nay. Please record.

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB 735A.

SPEAKER BROMM: LB 735A is advanced. Next item, Mr. Clerk.

CLERK: LB 255, Mr. President, by Senator Landis. (Read title.) Bill was introduced on January 13, referred to the Judiciary Committee, advanced to General File. I do have committee amendments. (AM0141, Legislative Journal page 547.)

SPEAKER BROMM: Senator Landis, to open on LB 255.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature. I'm delighted that this was a committee priority for the Judiciary Committee. LB 255 is the Uniform Mediation Act. We've had it before us for two years. In the intervening year last year, the State Bar Association used the summer to study it, review it with a group of interested parties, and they came in, in support of this measure, as did the Bar Association. So did the Office of Dispute Resolution, the National Conference of Commissioners on State Laws, the Nebraska Mediation Center Association, and the Advisory Committee of the Office of Dispute Resolution. Currently, negotiation discussions are privileged. If you had a court case and the lawyers got together to try to settle the case, what the two of them said would be privileged. You couldn't use it in the court of law. It wouldn't be admissible. And the reason is you might make a candid admission in a negotiation, in which you might say, well, it's true, my client did punch your client and we'd pay \$300 bucks if this would go away. Well, if you go to trial, you can't use that statement by the lawyer to the other lawyer as evidence that in fact the punch occurred. You'd have to establish it some other way. So negotiations discussions are privileged and are not available for admission in to a court to prove the false or truthfulness of a particular situation. You've got to prove it some other way than my lawyer said it to your lawyer in the middle of negotiations. One of the reasons we do that is to